

Rule 022

Rules on Costs in Utility Rates Proceedings

This rule as amended was approved by the Alberta Utilities Commission on February 7, 2024, and is effective on March 1, 2024.

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1 Definitions

In these rules:

- (1) “act” means the *Alberta Utilities Commission Act*;
- (2) “applicant” means a person who files an application commencing a rates proceeding and, where the Commission so directs, may include a utility or regulated service provider that participates in a generic or other proceeding that relates to policies or concerns respecting more than one utility or regulated service provider;
- (3) “Commission” means the Alberta Utilities Commission;
- (4) “eligible intervener” means an intervener that
 - (a) has, or represents a group that has, a substantial interest in the subject matter of a rates proceeding;
 - (b) does not have the means to raise sufficient financial resources to enable the intervener to present its interest adequately in the proceeding;
 - (c) brings expertise or insight that the applicant or other interveners do not have, to the issues facing the Commission in the proceeding, or will otherwise assist the Commission in determining the issues before it in the proceeding; and
 - (d) is not an ineligible intervener.
- (5) “funded participant” means an ineligible intervener determined by the Commission to qualify for partial cost recovery in a proceeding;
- (6) “ineligible intervener” means
 - (a) An owner of a utility or a regulated service provider or an out-of-province utility that is not an applicant;
 - (b) An investor-owned water utility pursuant to Rule 011: *Rate Application Process for Water Utilities*;
 - (c) An electric generator, or an association representing electric generators;
 - (d) A business, commercial, institutional or industrial entity, or an association of these entities;
 - (e) A municipality or an association of municipalities; or
 - (f) A rural electrification association, a rural gas co-op, or an association of rural electrification associations or rural gas co-ops.
- (7) “intervener” means a participant in a rates proceeding who is not the applicant nor the Commission;
- (8) “participant” means an applicant or intervener that is eligible to recover costs in accordance with this rule;
- (9) “rates proceeding” means a proceeding convened to consider the rates, tolls, tariffs, charges, prices or terms and conditions of service of an owner involved in the provision of electric or gas distribution services, electric or gas transmission services, regulated

electric or gas retail services, and investor-owned water services and any other proceeding determined by the Commission to be a rates proceeding, including proceedings convened to consider a needs identification document under Section 34 of the *Electric Utilities Act*, but does not include an enforcement proceeding;

- (10) “rates review proceeding” means a proceeding convened to consider an application to review a Commission decision made in a rates proceeding;
- (11) “regulated service provider” means a regulated rate provider under the *Electric Utilities Act* or a default supply provider under the *Gas Utilities Act*;
- (12) “scale of costs” means the scale of costs set out in Appendix A;
- (13) “utility” means a gas utility within the meaning of the *Gas Utilities Act*, an electric utility within the meaning of the *Electric Utilities Act*, and a public utility within the meaning of the *Public Utilities Act*.

2 Application

- (1) These rules apply to rates proceedings, rates review proceedings and any other proceeding to which the Commission determines these rules apply.
- (2) These rules may also apply to any pre-application or pre-inquiry process connected with a proceeding referred to in (1), including settlement negotiations, that may occur before the filing of an application, if the Commission determines that such process may result in the fair, expeditious and efficient resolution of any issue.
- (3) The Commission may dispense with, vary or supplement all or any part of these rules if it is satisfied that the circumstances of any proceeding, or the fair, expeditious and efficient resolution of any issue, require it.

3 Costs eligibility request

- (1) The Commission may direct an applicant or intervener to file a request for costs eligibility in accordance with the process schedule established for the proceeding and in the form prescribed in the Rule 022 Costs Eligibility Form.
- (2) An intervener may file a request for costs eligibility in a proceeding in which the Commission has not made a direction under 3(1) if the intervener is seeking advanced funding.

4 Funded participant

- (1) An ineligible intervener may qualify as a funded participant in a proceeding if

- (a) the ineligible intervenor will file expert or other evidence or argument that would not, in the absence of partial cost recovery, otherwise be presented to the Commission; and
 - (b) the expert or other evidence or argument that the ineligible intervenor will file will assist the Commission in understanding issues material to the subject proceeding.
- (2) A funded participant who seeks recovery of costs must bear a portion of the costs of participating.

5 Costs application

- (1) Applicants, eligible intervenors or funded participants may apply to the Commission for a cost award by filing a costs application in accordance with the Rule 022 Costs Application Form.
- (2) An applicant, eligible intervenor or funded participant who files a costs application has the onus of demonstrating that the costs claimed are reasonable and that their participation contributed to a better understanding of the issues raised in the proceeding.
- (3) All costs applications must be in accordance with the scale of costs, unless the Commission authorized the participant to claim costs in excess of the scale of costs in a proceeding.
- (4) Unless otherwise directed, all costs applications must be filed within 30 days after the rates proceeding, rates review proceeding or other proceeding, is closed.
- (5) Notwithstanding subsection (4), for a rates proceeding involving a negotiated settlement, all costs applications must be filed within 30 days after:
 - (a) the date on which the settlement is approved by the Commission, if the settlement is dispositive of all the issues in the proceeding; or
 - (b) the date on which the rates proceeding is closed, in all other cases.
- (6) All costs applications must be filed using the Commission's eFiling System.
- (7) After receipt of a costs application, the Commission may direct the participant who filed the costs claim to file additional information or documents with respect to the costs claimed.
- (8) The Commission shall issue notice of a costs application on the record of the proceeding to which the claim relates.

6 Rates review proceedings

- (1) In a rates review proceeding, the review applicant must bear its own costs where its application does not result in a variance of the decision subject to the review application.

7 Comments on costs application

- (1) No person shall file comments on a costs application without first receiving permission from the Commission to do so.
- (2) A request to file comments on a costs application must be made to the Commission within five business days of the date upon which the costs application was filed.

8 Costs decision

- (1) When considering a costs application, the Commission may have regard for whether:
 - (a) The participant needed legal or technical assistance to take part in the proceeding.
 - (b) The participant brought expertise or insight to bear on the issues facing the Commission in the proceeding and contributed to a better understanding of the issues.
 - (c) The costs are reasonable.
 - (d) The participant acted responsibly in the proceeding, including whether the participant:
 - (i) pursued irrelevant issues through information requests and/or questioning, taking into account their materiality and the scope of any established issues list;
 - (ii) failed to adhere to Rule 001: *Rules of Practice* and any Commission rulings and directions such as page and time limits;
 - (iii) asked duplicative information requests or questions, or otherwise failed to avoid duplication of work by coordinating with other participants;
 - (iv) presented new evidence in argument or during an oral hearing that was available at the time the participant filed documentary evidence; and
 - (v) engaged in any other conduct that unnecessarily lengthened the rates proceeding or resulted in unnecessary costs to the Commission, or the other participants.
 - (e) Any other matter that the Commission determines to be material and relevant to the costs application.
- (2) Having regard to the above factors, and any other factor that, in the opinion of the Commission is material and relevant to a costs application, the Commission may:
 - (a) Approve or deny the costs application, in whole or in part;

- (b) Grant partial, further or other relief in addition to, or in substitution for, that applied for;
- (c) Direct that any participant or other person, including the owner of a utility or regulated service provider, pay another participant's costs, or portion thereof; and
- (d) Include any terms and conditions that it prescribes.

9 **Coming into force**

This rule comes into force on March 1, 2024, and applies to all rates proceedings or review proceedings registered after this date.

Appendix A – Scale of costs

In accordance with Section 5(3) of Rule 022, all claims for professional fees and disbursements must be in accordance with this scale of costs, unless the Commission authorized the participant to claim costs in excess of this scale of costs in a proceeding.

1. Professional fees

Professional fees (maximum hourly rates)		
Years of experience	Legal fees	Consultant, analyst, and expert fees
Articling student	\$190 per hour	Not applicable
1-4 years	\$315 per hour	\$160 per hour
5-7 years	\$380 per hour	\$210 per hour
8-12 years	\$430 per hour	\$315 per hour
More than 12 years	\$475 per hour	\$370 per hour

2. Fees for administrative, clerical or other support services

Legal fees are deemed to include all overhead charges implicit in the normal operation of a law firm, including work performed by administrative, clerical or support staff.

Consultants, analysts and experts may include reasonable fees for work performed by administrative, clerical or other support staff at a rate of \$60 per hour. The Commission will not recognize claims for overhead based upon percentages of the fees or disbursements claimed.

Statements of account/invoices/timesheets for professional and administrative fees are to be filed by Claimants.

3. Disbursements

Office disbursements

The following office disbursements are eligible for recovery without a receipt. However, Claimants should retain receipts for such disbursements because the Commission will require their submission if the claim is selected for a more detailed review. To support the environment, and given the existence of the eFiling System, the Commission no longer permits cost recovery for photocopies.

- courier charges
- postage
- transcripts
- miscellaneous charges

The Commission will not consider disbursement claims based upon percentages of the fees claimed.

Travel disbursements

Claims for travel disbursements are **limited to travel to and from a hearing or proceeding**. While it is not necessary to submit receipts for all travel disbursements, Claimants should retain receipts for all travel disbursements because the Commission will require their submission if the claim is selected for a more detailed review.

Expense type	Limit	Receipt required
Meal allowances		
breakfast	\$13 (including GST)	no
lunch	\$17 (including GST)	
dinner	\$27 (including GST)	
Accommodation	The actual expense of accommodation at a reasonably priced hotel may be claimed	yes
Airfare	Economy class air travel	yes
Private vehicle mileage	\$0.55 per kilometre (including GST), restricted to intercity travel distances of 50 kilometres or greater	no
Taxi		no
Parking		no